UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,313	02/28/2002	David Kammer	PALM-3749.US.P	2769

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EXAMINER
JEAN GILLES, JUDE

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)
Office Action Summary		10/086,313	KAMMER ET AL.
		Examiner	Art Unit	
		Jude J. Jean-Gilles	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 May 2006*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,7-9,12,18-20 and 23-27* is/are rejected.

7)☒ Claim(s) *2-6,10,11,13-17,21 and 22* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

This Action is in regards to the Reply received on 05/11/2006.

Response to Amendment

1.   This action is responsive to the application filed on 02/28/2002. No claims were

amended. There are no newly added claims. Claims 1-27 are pending. Claims 1-27

represent a method and apparatus for "for intelligently selecting a wireless

communication access point".

Response to Arguments

2.   Applicant's arguments with respect to claims 1, 12, and 23 have been carefully

considered, but are not deemed fully persuasive. Applicant's arguments are deemed

moot in view of the following new ground of rejection as explained here below

The dependent claims stand rejected as articulated in the First Office Action and

all objections not addressed in Applicant's response are herein reiterated.

In response to Applicant's arguments, 37 CFR § 1.11(c) requires applicant to

"clearly point out the patentable novelty which he or she thinks the claims present in

view of the state of the art disclosed by the references cited or the objections made. He

or she must show the amendments avoid such references or objections."

Allowable Subject Matter

3.   **Claims 2-6, 10, 11, 13-17, 21 and 22** are objected to as being dependent upon

a rejected base claim, but would be allowable if rewritten in independent form including

all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claims 1, 7-9, 12, 18-20, and 23-27** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Lortz U.S. Patent No. 6,505,243 B1 in view of Beasley et al

(Beasley), U.S. Patent No. 7,016,325 B2.

Regarding claim 1, Lortz discloses the invention substantially as claimed.

Lortz discloses a method of connecting to a wireless communication access point

comprising:

a) an initiator device broadcasting a first wireless message to a plurality

of potential access point devices, said initiator device storing therein a list of

recognized device addresses for connecting thereto (*fig. 1; column 5, lines 1-15*);

c) said initiator device comparing device addresses of said plurality of

second wireless messages for address matches with said list of recognized

device addresses (*column 7, lines76-19*);

d) applying a fitness function to address matches of said c) to determine

a single address (*column 7, lines76-19*; column 3, lines 12-34);and

e) connecting to an access point device corresponding to said single

address (*column 5, lines 1-31*).

However, Lortz fails to disclose b) in response to said initiator device broadcasting said

first message said initiator device receiving a plurality of second wireless messages

from a set of said plurality of potential access point devices.

In the same field of endeavor, Beasley discloses ". ... In block 1108, the BSU

broadcasts one of the generated address values, and in block 1110 starts a timer. The

timer value may be some default value, or a value retrieved from the initialization file

816. In block 1112, the BSU determines whether any responses have been received

before the timer expires. If not, then the BSU in block 1114 determines that the

generated address is unique, and the routine loops back to again perform the functions

under block 1108, 1110 and 1112 with another of the locally generated addresses. All

of the remaining addresses are then stored in the LMS file 816 for use when an MU

requests to establish a link. (145) If a response is received, indicating that another BSU has generated such an address, then in block 1116, the BSU removes that address from the list. Each BSU in the PMN, during address selection and initialization, cooperates with each other by listening for broadcasts from other BSUs. An asynchronous process in the LMS software 810 listens for such requests by neighboring BSUs, and for each request, compares a received address with locally generated addresses that have previously been generated and verified (under block 1114) to determine whether to send a response... [see Beasley; column 20, lines 16-36].

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Beasley's teachings of using response broadcast message to the initiator device, with the teachings of Lortz, for the purpose of "...*providing link context mobility in at least a Bluetooth system...*" as stated by Beasley in lines 28-32 of column 3. By this rationale **claim 1** is rejected.

Regarding claim 7, The combination Lortz-Beasley discloses the method as recited in Claim 1 wherein said initiator device and said responding device are Bluetooth-enabled devices [see Beasley; column 28, lines 17-50; see Beasley; column 20, lines 16-36].

Regarding claim 8, the combination Lortz-Beasley discloses the wireless communication access point of claim 1, but does not specifically discloses a method wherein said access point device is coupled to a network comprising a network server [see Lortz; column 3, lines 23-45].

Regarding claim 9, the combination Lortz-Beasley discloses the method of Claim 8

wherein a list of all current network access point addresses is maintained on said

network server[see Lortz; column 3, lines 23-45].

Regarding claim 12, The combination Lortz-Beasley discloses a wireless

communication device comprising:

a bus (see Lortz; *fig. 1, item 104*);

a wireless transceiver unit coupled to said bus for communicating with responding

devices [see Beasley; column 28, lines 17-50; see Beasley; column 20, lines 16-36];

a memory cache coupled to said bus (see Lortz; *fig. 1, memory of device 2 and 3*); and

a processor coupled to said bus, said processor for performing a method for selecting

and connecting to a responding access point device (see Lortz; *fig. 1, memory of*

device 2 and 3), said method comprising:

a) an initiator device broadcasting a first wireless message to a plurality of potential

access point devices, said initiator device storing therein a list of recognized device

addresses for connecting thereto (see Lortz; *fig. 1; column 5, lines 1-15*);

b) said initiator device receiving a plurality of second wireless messages from a set of

said plurality of potential access point devices [see Beasley; column 28, lines 17-50;

see Beasley; column 20, lines 16-36];

c) said initiator device comparing device addresses of said plurality of second wireless

messages for address matches with said list of recognized device addresses (see

Lortz; *column 7, lines76-19*);

d) applying a fitness function to address matches of said c) to determine a single

address (see Lortz; *column 7, lines76-19*; column 3, lines 12-34); and

e) connecting to an access point device corresponding to said single address (see

Lortz; *column 5, lines 1-31*).

Regarding claim 18, Lortz-Beasley discloses the method as recited in Claim 12

wherein said initiator device and said responding device are Bluetooth-enabled

devices [see Beasley; column 28, lines 17-50; see Beasley; column 20, lines 16-36].

Regarding claim 19, the combination Lortz-Beasley discloses the method as

recited in Claim 12 wherein said access point device is coupled to a network

comprising a network server [see Lortz; column 3, lines 23-45].

Regarding claim 20, the combination Lortz-Beasley discloses the method of

Claim 19 wherein a list of all current network access point addresses is maintained on

said network server [see Lortz; column 3, lines 23-45].

Regarding claim 23, the combination Lortz-Beasley discloses in a wireless

communication device having a wireless transceiver and a memory cache comprising

a list of access point addresses, a method for updating said list of access point

addresses comprising:

a) connecting said wireless communication device with a network server, said network

server comprising a list of current network access point addresses for a network [see

Lortz; column 3, lines 23-45];

b) comparing said list of access point addresses to said list of current network access

point addresses [see Lortz; column 3, lines 23-45];

c) adding to said list of access point addresses in said memory cache of said wireless

communication device any addresses found on said list of current network access

point addresses and not found on said list of access point addresses [see Lortz; fig. 1; column 2, lines 1-64]; and

d) deleting from said list of access point addresses in said memory cache of said wireless communication device any addresses not found on said list of current network access point addresses and found on said list of access point addresses[see Beasley; column 28, lines 17-50; see Beasley; column 20, lines 16-36].

Regarding claim 24, the combination Lortz-Beasley discloses the method as recited in Claim 23 wherein said wireless communication device is a Bluetooth-enabled device [see Beasley; column 28, lines 17-50; see Beasley; column 20, lines 16-36].

Regarding claim 25, the combination Lortz-Beasley discloses the method as recited in Claim 23 wherein connecting said wireless communication device with a network server comprises connecting through an access point [see Lortz; column 3, lines 23-45].

Regarding claim 26, the combination Lortz-Beasley discloses the method as recited in Claim 23 wherein said access point is a Bluetooth enabled device access point [see Beasley; column 28, lines 17-50; see Beasley; column 20, lines 16-36].

Regarding claim 27, the combination Lortz-Beasley discloses the method as recited in Claim 23 wherein said wireless communication device is a portable computer system [see Beasley; column 28, lines 17-50; see Beasley; column 20, lines 16-36].

Response to Arguments

6.   Applicant's Request for Reconsideration filed on 05/11/2006 has been carefully

considered but is not deemed fully persuasive. However, because there exists the

likelihood of future presentation of this argument, the Examiner thinks that it is prudent

to address Applicants' main points of contention.

      A. The Lortz patent does not disclose nor does it suggest that device addresses

      are compared with the list of recognized device addresses, as claimed.

      B. Applicant contends that the rejection admits that Lortz fails to disclose that in

      response to said initiator device broadcasting said first message said initiator

      device receiving a plurality of second wireless messages from a set of said

      plurality of potential access point devices, as claimed. The rejection relies on

      Gilkes to remedy this defect. The Applicants respectfully traverse.

      C. Applicant contends that Gilkes does not disclose nor does it suggest

      receiving a plurality of messages in response to broadcasting a message to a

      plurality of potential access point devices, as claimed. Moreover, independent

      Claim 1 does not require a unique identifier whereas Gilkes necessarily requires

      The unique identifier in order to respond to the mobile communication device 51.

7.   As to "Point A" it is the position of the Examiner that new prior art of Beasley

discloses this limitation of the claim [see Beasley; column 20, lines 27-36].

      As to "Point B and C", it is also the Examiner's position that Beasley teaches this

limitation of the claim. [see rejection of claims 1, 12 and 23] .

Examiner notes with delight that no new matter has been added the claims are supported by the application as filed. However, applicant has failed in presenting claims and drawings that delineate the contours of this invention as compared to the cited prior art. Applicant has failed to clearly point out patentable novelty in view of the state of the art disclosed by the references cited that would overcome the 103(a) rejections applied against the claims, the rejection is therefore sustained.

Conclusion

8.   Applicant's remarks on the prior of record necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE NON-FINAL**. The Examiner strongly anticipates a Final Rejection Office Action on the next response if amendments are not properly made to the claims to perhaps place them in condition for allowance.

Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (571) 272-

9000.

Jude Jean-Gilles

Patent Examiner

Art Unit 2143

JJG

August 20, 2006

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